

LESLIE E. DEVANEY  
ANITA M. NOONE  
LESLIE J. GIRARD  
SUSAN M. HEATH  
GAEL B. STRACK  
ASSISTANT CITY ATTORNEYS

OFFICE OF  
**THE CITY ATTORNEY**  
CITY OF SAN DIEGO

**Casey Gwinn**  
CITY ATTORNEY

CIVIL DIVISION  
1200 THIRD AVENUE, SUITE 1620  
SAN DIEGO, CALIFORNIA 92101-4199  
TELEPHONE (619) 236-6220  
FAX (619) 236-7215

April 20, 2001

**REPORT TO THE COMMITTEE ON RULES, FINANCE  
AND INTERGOVERNMENTAL RELATIONS**

**ENACTMENT OF AN ORDINANCE ESTABLISHING AN ETHICS COMMISSION FOR  
THE CITY OF SAN DIEGO**

**INTRODUCTION**

At the January 10, 2001 meeting of the Committee on Rules, Finance and Intergovernmental Relations, Mayor Dick Murphy presented a proposal for establishment of a City Ethics Commission. The Mayor's proposal included recommendations for the composition of the Commission, appointment process and terms, responsibilities and duties, qualifications, staff, and budget for the Commission. Following the January 10, 2001, Rules Committee meeting, additional input on the Mayor's Ethics Commission proposal was received from a variety of sources, including citizens, public officials, and members of a past citizen's advisory committee on ethics.

Subsequently, on February 7, 2001, February 21, 2001, and March 7, 2001, a draft ordinance for establishing the Ethics Commission was presented to the Rules Committee. The draft ordinance was presented to the full City Council on March 19, 2001, and was presented to the Rules Committee again on April 4, 2001 at the request of the full City Council. Through the course of these meetings, input has been received on the draft ordinance from the public, members of the Committee, and a number of revisions have been made to the ordinance as a result of that input.

**DISCUSSION**

Attached to this report is a new draft of the ordinance prepared by this office for establishment of a City Ethics Commission. The draft ordinance is based on the Mayor's original proposal presented to the Rules Committee on January 10, 2001, and contains revisions resulting from the feedback received from officials and interested citizens. The following is a summary of the significant changes that have been made to the ordinance in this latest draft.

1. Definition of Governmental Ethics Laws (section 26.0402). For purposes of clarity and consistency, a revised definition of the term “governmental ethics laws” has been added as section 26.0402.

3. Appointment of Members (section 26.0404). Changes to the appointment process have been made based upon feedback from the League of Women Voters and members of the City Council, to allow members of the City Council to have more input into the appointment process. The appointment provision has been revised to allow for the members of the City Council and City Attorney to nominate candidates for the Ethics Commission, creating a pool of candidates from which the Mayor will make the appointments, both for the initial appointments and subsequent vacancies. The Mayor will make all seven appointments to the Commission from this pool, and the appointments will be subject to confirmation by the Council. The City Attorney will no longer be appointing a Commission member. The Mayor must appoint two Commission members who are attorneys and one who has held elective office. Additionally, section 26.0404(e) has been added, which requires the Commission to select a Chairperson annually, and which sets a term limit for the Chairperson.

4. Qualification of Members (section 26.0406). Previous drafts of this ordinance provided that Commissioners would be prohibited from becoming a candidate for elective governmental office during service on the Commission. That section has been revised to extend that prohibition for twelve months after completing service on the Commission.

5. Vacancies (former section 26.0408). Former section 26.0408, relating to the filling of vacancies on the Commission, has been deleted, because the procedures for filling vacancies are now included in the Appointment provision, at section 26.0404(d).

6. Executive Director (section 26.0411). Language has been added to the Staff and Budget section providing that the Commission’s selection of an executive director is subject to confirmation by the City Council.

7. Jurisdiction (section 26.0413). This provision has been revised for consistency with the definition of “governmental ethics laws” which is now contained in section 26.0402. Additionally, language has been added to limit the jurisdiction of the Commission to matters or events occurring on or after July 1, 2001.

8. Responsibilities and Duties (section 26.0414). Former language in this provision requiring the Commission to establish an expedited investigation process for complaints about candidates made within the last thirty days before an election has been deleted and replaced with a more general requirement that the Commission establish reasonable safeguards to protect candidates from frivolous complaints made during the last ninety days before an election.

Language has also been added to section 26.0414(d) requiring the Commission to provide in its

April 20, 2001

procedures for procedural due process rights for individuals under investigation by the Commission. Finally, language has been added to that section prohibiting the Commission from acting on any complaints until its procedures have been approved by the City Council, and that the Council shall not unreasonably delay approval of the procedures.

### **CONCLUSION**

The draft ordinance attached to this report establishes the basic framework for a City Ethics Commission, as set forth in the Mayor's proposal of January 10, 2001, and incorporates feedback which has subsequently been received from the Rules Committee members, other public officials, and citizens. This draft ordinance is now being presented to the Rules Committee for further review and comment prior to its presentation to the City Council for adoption.

Respectfully submitted,

/ S /

CASEY GWINN  
City Attorney

LAF:smf:jrl:(043.1)  
Attachment  
RC-2001-12